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INSIGHT: Multiple CBD Class Actions Stayed Pending FDA Regulatory Action

Already this year, federal courts in California and Florida have stayed three putative class actions against cannabidiol (CBD) companies on primary jurisdiction grounds. These judges are deferring action within the cases until the Food and Drug Administration (FDA) completes its initial decision-making on regulating CBD. But the application of primary jurisdiction across the country to CBD class actions has not been uniform, nor is it guaranteed.

The growth in the CBD product market comes amidst increasing attention from regulators and private litigants. In November 2019, the FDA sent a flurry of warning letters concerning open questions about CBD product safety and the agency's oversight.

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